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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,146	11/14/2000	Akifumi Tada	A-389	3492

7590

08/28/2002

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EXAMINER

SCOTT JR, LEON

ART UNIT

PAPER NUMBER

2828

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/713,146

Applicant(s)

TADA, AKIFUMI

Examiner

Leon Scott, Jr.

Art Unit

2828

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \*   c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear in line 5 of claims 1 and 2 what constitutes a *beam diameter-enlarging optical system*, nor is it clear how such a system connectively relates to the device as a whole; claims 1 and 2 are indefinite and incomplete. In line 6 of claims 1 and 2 it is not clear how the slit functions in the device as a whole; claims 1 and 2 are indefinite and incomplete. The recitation in brackets: (*a measured value for a He-Ne laser light*) in lines 8 and 9 of claim 1 and in lines 12 and 13 of claim 2 is indefinite. The wherein clause in lines 8-12 of claim 1 expresses a desired result while failing to the structure and/or means necessary to provide said result; In lines 11 and 12 of claim 1 and in line 14 of claim 2, *λ* is a measuring wavelength of what; i.e. what is being measured; claims 1 and 2 are indefinite and incomplete. Although claim 1 makes claim for a narrow-band excimer laser and recites structure; it is not clear, within the context of claim language, how the laser is narrowed; claim 1 is indefinite and incomplete. Further no excimer laser has been recited in claims 1 and 2 and no structure has been recited which is capable of producing an excimer output beam the claim is incomplete and since the preamble can not be used to positively recite claim elements; claims 1 and 2 are indefinite and incomplete. In line 2 of claim 3 the recitation *the number of grooves...* lacks a clear antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1 and 2 are, insofar as definite, rejected under 35 U.S.C. 102(e) as being *anticipated* by Stamm et al(US 2002/0101890 A1).

(See figs. 2a and 2e; also see p.5 col. 2 lines 5-30, and p.7 col.2 lines 40-58.).

Claim 1 is, insofar as definite, rejected under 35 U.S.C. 102(e) as being *anticipated* by Stamm et al(US 2002/0075933 A1)

(See figs. 2a and 2e; also see p.6 col. 1 lines 36-39).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3/1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stamm et al(US 2002/0101890 A1) or . Stamm et al(US 2002/0075933 A1) both as applied above.

Given the structure of the references and since applicant has only made claim to the number of lines or grooves in the grating, it would be obvious to one of ordinary skill in the art of designing gratings that such gratings as disclosed in figs. 2a and 2e can be designed with any number of grooves depending upon the desired result or intended use of the grating; thus the claimed range is obvious.

Stamm(6,424,666 B1) is cited for its teaching of an excimer laser having a line-narrowing module.

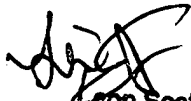
Ershov(5,856,991) is cited for its teaching of a very narrow-band excimer laser.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leon Scott, Jr. whose telephone number is 703-308-4884. The examiner can normally be reached on Monday - Friday, 6:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul P. Ip can be reached on (703)308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-2864 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3431.

  
Leon Scott, Jr.  
Primary Examiner  
Leon Scott, Jr.  
Primary Examiner  
Art Unit 2828

lsjr  
August 23, 2002